

Docket No.: 1422-0655PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Makoto ISHIKAWA et al.

Application No.: 10/518,926

Confirmation No.: 7260

Filed: December 23, 2004

Art Unit: 1712

For: OIL-IN-WATER EMULSION
COMPOSITION

Examiner: Kugel, Timothy J.

DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

I, Makoto ISHIKAWA, residing in Mie, Japan, hereby declares and states as follows:

1. That I am one of the co-inventors of U.S. Application Serial No. 10/518,926 filed on December 23, 2004, entitled OIL-IN-WATER EMULSION COMPOSITION. I am thoroughly familiar with the contents of said Application, its prosecution before the United States Patent and Trademark Office and the references cited therein.

2. That I am a graduate of University of the Ryukyus, Faculty of Agriculture and received a master's degree in the year 1994, majoring in bioscience and biotechnology.

3. That I have been employed in Taiyo Kagaku Co., Ltd. since 1994 and have been assigned to the Research Laboratories.

4. That I have been involved in the research and development of emulsified functional oils and fats formulation since 1999.

5. That the following statements were made to clarify the matters disclosed in the previous Declaration filed on January 31, 2008.

I. Skills of the Panelists

The ten panelists A to J participated in the evaluation of odor are as follows.

- 1) The panelists have been engaged in the research and development of the emulsion composition for 3 to 15 years.
- 2) The assignee has been handling fish oil as a material for 15 years, and the panelists are engaged in the evaluation of fish oil for many years.
- 3) The panelists are also skillful for evaluating vegetable fats and oils and animal fats and oils.
- 4) In addition to fats and oils, the panelists have performed sensory tests daily on odors of materials of vitamins and minerals.
- 5) Individuals that lack physical conditioning such as those catching cold are not allowed to participate in the test.

II. Presence of glycerol

Although glycerol is used in the emulsion composition for testing, glycerol is not essential to the present invention. Glycerol is simply used to assist dispersion of the hydrophilic emulsifier used in the test. Persons skilled in the art generally employ glycerol in such a test. However, even in the absence of glycerol, the effects of the present invention are still exhibited. Accordingly, it is not problematic or necessary that glycerol components are not recited in the claims.

III. Raw Data for the Previous Test

We hereby submit raw data for the previous sensory test in the Declaration filed January 31, 2008.

Test 1: Commercially Available Cow's Milk (MEGMILK)

Test 2: Commercially Available Yogurt Drink (Meiji Bulgaria Drinking Yogurt LB81 Plain)

Test 3: Commercially Available Orally Taken Liquid Food (Meibalance 200 Vanilla)

Evaluation Criteria

- : 0 to 2 individuals out of 10 recognize or slightly recognize fish odor.
- △: 3 to 5 individuals out of 10 recognize or slightly recognize fish odor.
- ×: 6 to 10 individuals out of 10 recognize or slightly recognize fish odor.

Sensory Test

Rank 0: An individual does not recognize or cannot discern a fish odor.

Rank 1: An individual recognizes or slightly recognizes a fish odor.

The results are shown in Tables I to III.

I Commercially Available Cow's Milk

Ex. 1 of

Panelist	Present Invention	Follow-up Ex. A	Follow-up Ex. B	Follow-up Ex. C	Follow-up Ex. D	Control
A	0	1	1	0	1	1
B	0	0	0	0	0	0
C	0	0	0	1	0	1
D	0	0	0	0	0	0
E	0	0	0	0	0	1
F	0	0	0	1	1	1
G	0	0	0	0	0	0
H	0	1	1	1	1	1
I	0	1	1	1	1	1
J	0	0	1	0	0	1
Total	0	3	4	4	4	7

II Commercially Available Yogurt Drink

Ex. 1 of

Panelist	Present Invention	Follow-up Ex. A	Follow-up Ex. B	Follow-up Ex. C	Follow-up Ex. D	Control
A	0	0	1	0	1	1
B	0	0	0	0	0	0
C	0	1	1	0	0	1
D	0	0	0	0	0	0
E	0	0	0	0	0	1
F	0	0	0	1	0	1
G	0	0	0	0	0	0
H	0	1	1	1	1	1
I	1	1	1	1	1	1
J	0	0	1	1	1	1
Total	1	3	5	4	4	7

III Commercially Available Orally Taken Liquid Food

Ex. 1 of

Panelist	Present Invention	Follow-up Ex. A	Follow-up Ex. B	Follow-up Ex. C	Follow-up Ex. D	Control
A	0	0	0	0	1	1
B	0	0	0	0	0	0
C	0	1	1	1	1	1
D	0	0	0	0	0	1
E	0	0	0	0	0	1
F	0	0	1	1	0	1
G	0	0	0	0	0	0
H	0	1	1	1	1	1
I	1	1	1	1	1	1
J	0	0	1	1	1	1
Total	1	3	5	5	5	8

Statement Under 18 U.S.C. § 1001

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: July 6, 2009

By M. Ishikawa

Makoto ISHIKAWA